

Message Text

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ACTION HEW-06

INFO OCT-01 NEA-09 ISO-00 OES-05 ABF-01 FSE-00 COME-00 L-02

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FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC PRIORITY 7821

UNCLAS NEW DELHI 4360

DEPT. PASS DHEW/PHS/OIH

E.O. 11652: N/A

TAGS: TBIO, IN

SUBJECT: DHEW/SFC DRAFT PROJECT AGREEMENT

REF: (A) STATE 244697 NOV 6, 1974 (B) NEW DELHI 17320

DEC 31, 1974 (C) NEW DELHI 2365 FEB 20, 1975 (D) STATE

045856 FEB 28, 1975

1. MR. KARTAR SINGH, ADDITIONAL SECRETARY, MINISTRY OF HEALTH AND FAMILY PLANNING CLAIMS THAT THE FOLLOWING PROPOSED LANGUAGE FOR THE "PATENT CLAUSE" WAS GIVEN HIM BY DHEW OFFICIALS DURING HIS VISIT TO WASHINGTON TO ATTEND THE U.S./INDO S AND T SUBCOMMISSION MEETING:

"SUBJECT TO AN IRREVOCABLE ROYALTY FREE LICENCE TO THE OTHER COUNTRY TO MAKE USE OF OR SELL THE INVENTION FOR GOVERNMENT PURPOSES."

2. UPON HIS RETURN TO DELHI IN EARLY FEBRUARY, MR. SINGH PERSONALLY INTERVENED AND WAS ABLE TO SECURE APPROVAL OF THE ABOVE WORDING FROM THE INDIAN MINISTRY OF LAW. AS IT STANDS NOW, THE MOH APPROVED COMPLETE PATENT CLAUSE READS AS FOLLOWS:

A. " ALL INVENTIONS CONCEIVED OR FIRST ACTUALLY REDUCED TO PRACTICE IN PERFORMANCE OF THE INVESTIGATIONS EITHER BY ANY

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INDIVIDUAL OR GROUP OF WORKERS CONNECTED WITH THE PROJECT

SHALL BE REPORTED BY THE INDIAN COLLABORATING INSTITUTIONS TO THE GOVERNMENT OF INDIA WHICH WILL COMMUNICATE THE INVENTION TO THE GOVERNMENT OF THE U.S.A."

B. "THE INDIAN COLLABORATING INSTITUTION WILL HAVE PATENT RIGHTS IN SUCH INVENTIONS IN INDIA. SIMILARLY, THE U.S. COLLABORATING INSTITUTION WILL HAVE PATENT RIGHTS IN THE U.S.A."

C. "THE OWNERSHIP AND MANNER OF DISPOSITION OF ALL RIGHTS IN SUCH INVENTIONS IN ALL COUNTRIES OTHER THAN INDIA AND THE U.S.A. SHALL BE FOR DETERMINATION BY THE GOVERNMENT OF INDIA AND THE GOVERNMENT OF THE U.S.A. AND ANY PATENTS THAT MAY BE OBTAINED IN SUCH OTHER COUNTRIES MAY BE SECURED AND HELD JOINTLY BY INDIA AND THE U.S.A. IF EITHER THE GOVERNMENT OF INDIA OR THE GOVERNMENT OF THE U.S.A. IS NOT INTERESTED IN OBTAINING PATENTS IN ANY PARTICULAR COUNTRY, THE GOVERNMENT OF THE OTHER COUNTRY WILL BE FREE TO TAKE INDEPENDENT PATENTS IN SUCH COUNTRIES SUBJECT TO AN IRREVOCABLE ROYALTY FREE LICENCE TO THE OTHER COUNTRY TO MAKE USE OF OR SELL THE INVENTION FOR GOVERNMENT PURPOSES."

3. PLEASE CONFIRM IF THIS LANGUAGE IS ACCEPTABLE TO DHEW, IF SO WE HAVE A FINAL AGREEMENT.

4. ON MARCH 5, WE SUBMITTED THE DHEW PATENT LANGUAGE IN PPARA II OF REFTEL (D) TO THE MOH FOR REVIEW. HOWEVER KARTAR SINGH WOULD PREFER NOT TO PURSUE THIS FURTHER WITH THE MINISTRY OF LAW IN VIEW OF ACTION TAKEN IN PARAGRAPH I ABOVE. HE STRONGLY FEELS THAT THE LANGUAGE IN REFTEL (D) WOULD NOT NOW BE ACCEPTABLE TO MINISTRY OF LAW.

5. PLEASE ADVISE.SAXBE

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